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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,772	02/11/2004	George Kadlicko	04095- P0011A	3420
24126 7590 08/21/2007 ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619				
			EXAMINER HAMO, PATRICK	
			ART UNIT 3746	PAPER NUMBER
			MAIL DATE 08/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/776,772	Applicant(s) KADLICKO, GEORGE	
	Examiner Patrick Hamo	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to amendments filed on May 31, 2007.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-12 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blass 6,638,025 in view of Batchelder et al. 6,390,780.

Blass discloses a rotary hydraulic machine having a housing 32 including a casing (the upper portion of the housing to which actuator 51 is attached), a rotary group (34, 36, 44) located within said casing and including barrel 34 rotatable in said housing and having a plurality of pistons 38 axially slideable in cylinders 48 in said barrel, and a swashplate 36 assembly to engage said pistons and induce reciprocation thereof as said barrel rotates to transfer fluid between a pair of ports 50 & 46, an actuator 51 acting upon said swashplate to adjust the disposition thereof relative to said barrel and thereby adjust the stroke of said pistons in said barrel (col. 3 lines 11-20), and a Valve (clearly seen in figure 2 in actuator 51) to control flow to said actuator in response to control signals obtained from a control circuit 52 having at least one sensed input thereto indicative of a parameter of said rotating group (col. 3 lines 21-36), the

actuator housing secured to said casing and having an inwardly directed surface extending across an aperture (clearly seen in figure 2 where actuator 51 is inserted) in said casing to seal said aperture, a sensor assembly 58 located on said surface and operatively associated with said rotating group to sense said parameter; wherein said parameter is the rotation of said barrel (col. 3 lines 21-36); wherein said barrel includes a magnetic element to provide a time varying signal as said barrel rotates past said sensor which is responsive to variations in a magnetic field to sense rotation of said barrel (col. 3 lines 21-36); wherein said sensor is a Hall effect sensor (col. 3 lines 34-36); wherein said sensor is located in a bore (clearly seen in figure 2 where actuator 51 is inserted) in said surface and electrical leads 59 extend from said sensor into said control housing; wherein said control circuit receives a signal 68 indicative of pressure of fluid in one of said ports; wherein said control circuit receives a signal 76 indicative of temperature of fluid in one of said ports; wherein said sensor is responsive to changes in the disposition of said swashplate in said casing (col. 3 line 66 - col. 4 lines 10); wherein a member 51 cooperates with said swashplate to be moveable relative to said surface upon adjustment of said swashplate and said sensor is responsive to variations in a magnetic field induced by movement of said member (col. 3 lines 21-36); wherein said member is slidably supported in said control housing and extends therefrom into engagement with said swashplate assembly (col. 3 lines 21.-36); a valve (clearly seen in figure 2 integral with actuator 51) including an electrically controlled operator and a spool moveable by said operator (col. 3 lines 10-20), said spool being located within a valve cage within a bore in said housing and communicating through internal passages

Art Unit: 3746

with said actuator (clearly seen in figure 2 integral with actuator 51); wherein said operator is connected to said control circuit (col. 3 lines 10-20); wherein said housing includes a base (directly vertical of housing 32, shown in figure 2) and an upstanding peripheral skirt (integral with said base), said base being delimited by said surface and said skirt including said bores for said valve.

Blass does not disclose a control circuit located in a control housing secured to the casing, wherein electric leads extend from the sensor into the control housing. However Batchelder teaches a rotary pump with a casing 31 formed as a unit with a circuit board housing portion 52 which supports a circuit board 58 and an actuator in the form of motor 12, and a sensor 42 with electric leads (see fig. 11) extending into the control housing. Because both Blass and Batchelder teach control circuit and actuator combinations for controlling a rotary device, it would have been obvious to one skilled in the art to substitute the combined actuator and circuit board casing of Batchelder for the separate casings of Blass in order to achieve the predictable result of controlling the device.

Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 3 above in view of Kimura 5,749,710.

The references as applied to claim 3 teach all of the above-cited claim limitations, but fails to teach the following claim limitations taught by Kimura: where a magnetic element is a toothed ring (8 & 8b) secured to a barrel 8 to sense position of the said barrel (col. 6 lines 26-44); a member 8 is a pin engagable 10 with said swashplate 13

Art Unit: 3746

assembly at a location eccentric to its axis of rotation and slidable in a bore in said control housing, said pin carrying a magnet at a location adjacent to said sensor such that movement of said pin in said bore provides a varying magnetic field to said sensor (col. 6 line 62 - col. 7 line 5).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the magnetic element taught by Blass to incorporate the position sensing arrangement taught by Kimura as a means of detecting the instant rotation rate of the barrel (Kimura, col. 7 lines 18-25).

Claims 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 16 in view of Tokumasu 6,045,337.

The references as applied to claim 16 teach all of the above-cited claim limitations, but fails to teach the following claim limitations taught by Tokumasu: wherein a hydraulic accumulator 33 is located in a control housing 33 and is in hydraulic communication with a valve 35 in parallel with the system pressure port to supply pressure thereto; wherein said accumulator is formed by a cylindrical bore (clearly seen in figure 5 containing piston 31) in said control housing and a displaceable piston 31 slidable within said cylindrical bore against a spring element 32; wherein a stop (located on the far end of the bore as seen in figure 5) limits movement of said displaceable piston within said cylindrical bore to limit the force applied by said spring against said displaceable piston.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the control assembly taught by Blass to incorporate the accumulator assembly taught by Tokumasu as a means of building pressure at the control valve to more efficiently regulate the fluid pressure in the compressor (abstract).

Response to Arguments

Applicant's arguments, see pages 2-3, filed May 31, 2007, with respect to the rejection(s) of claim(s) 1-25 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Hamo whose telephone number is 571-272-3492. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 3746

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



PH


Anthony Stashick
Supervisory Patent Examiner
Art Unit 3746